

THE HONORABLE JOHN C. COUGHENOUR  
THE HONORABLE MARY ALICE THEILER

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Robert John Preston,  
  
Plaintiff,  
  
v.  
  
Ryan Boyer,  
  
Defendant.

Case No. C16-1106-JCC-MAT

**STIPULATION AND ~~PROPOSED~~  
ORDER LIMITING DISCOVERY AND  
AMENDING CASE SCHEDULE**

**NOTE ON MOTION CALENDAR:  
August 15, 2017**

**STIPULATION**

Plaintiff Robert Preston and Defendant Ryan Boyer (collectively, the “Parties”) stipulate and agree as follows:

1. In this 42 U.S.C. § 1983 action, Mr. Preston asserts claims for violation of his constitutional rights in connection with his arrest by Snohomish County Sheriff’s Deputy Boyer. Dkt. 10.

2. Deputy Boyer has asserted a qualified immunity defense, among other defenses. Dkt. 21.

3. Mr. Preston was originally proceeding pro se, but on April 5, 2017, the Court granted Mr. Preston’s motion to appoint counsel. Dkt. 58.

4. Mr. Preston’s appointed counsel appeared in the case on April 24, 2017. Dkt. 61.

1           5.       On May 1, 2017, the Court entered an Amended Pretrial Scheduling Order setting  
2 a discovery cutoff of September 8, 2017, and a dispositive motion deadline of October 6, 2017.  
3 Dkt. 62.

4           6.       Consistent with the United States Supreme Court's pronouncement that qualified  
5 immunity issues should be resolved at the "earliest possible stage of a litigation" and that any  
6 needed discovery "should be tailored specifically to the question of [the defendant's] qualified  
7 immunity" defense, *see Anderson v. Creighton*, 483 U.S. 635, 668 & n.6 (1987), the Parties  
8 agree that discovery should be limited at this stage of the case to the issue of qualified immunity,  
9 with the understanding that if this matter survives summary judgment on that issue, both fact and  
10 expert discovery will be reopened to all other issues.

11          7.       The Parties therefore request an order regarding the scope of discovery consistent  
12 with this understanding.

13          8.       The Parties have worked diligently to meet the scheduling order's deadlines, but  
14 they request modification of the existing deadlines. Due to the constraints of communicating  
15 with a party who is currently incarcerated in Eastern Washington, and because of scheduling  
16 conflicts for fact witnesses, expert witnesses, and counsel, the Parties stipulate to and request  
17 modification of the current discovery and dispositive motion deadlines.

18          9.       The Parties request that the Court modify the current discovery deadline  
19 (September 8, 2017) as follows:

- 20           a.       September 29, 2017 for fact discovery;
- 21           b.       October 20, 2017 for disclosure of expert reports; and
- 22           c.       November 9, 2017 for expert depositions.

23          10.       The Parties also request that the current deadline for dispositive motions (October  
24 6, 2017) be changed and that the following briefing schedule be set:

- 25           a.       November 17, 2017 filing deadline for a summary judgment motion on the  
26                   issue of qualified immunity;

b. December 8, 2017 for the Opposition; and

c. December 15, 2017 for the Reply.

The requested briefing schedule accounts for the modified discovery deadlines proposed above and provides an accommodation for the Thanksgiving holiday by slightly extending the typical response times for the Opposition and Reply.

11. The modest modifications of deadlines proposed above will not impact a trial date, as no trial date has yet been set. Good cause exists to modify the deadlines for the reasons identified above.

RESPECTFULLY SUBMITTED this 15th of August, 2017

By: s/ J. Camille Fisher  
J. Camille Fisher, WSBA #41809

By: s/ Laura Hill

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1 **~~[PROPOSED]~~ ORDER**

2 Based on the foregoing stipulation, IT IS SO ORDERED.

3 1. Discovery at this time shall be limited to the issue of qualified immunity. If this  
4 matter survives summary judgment on that issue, both fact and expert discovery will be reopened  
5 to all other issues, and an amended case schedule entered at an appropriate time.

6 2. The current discovery deadline is modified as follows:

- 7 a. September 29, 2017 deadline for fact discovery;  
8 b. October 20, 2017 deadline for disclosure of expert reports; and  
9 c. November 9, 2017 deadline for expert depositions.

10 3. The current deadline for dispositive motions is modified, and the following  
11 briefing schedule is set:

- 12 a. November 17, 2017 filing deadline for a summary judgment motion on the  
13 issue of qualified immunity;  
14 b. December 8, 2017 for the Opposition; and  
15 c. December 15, 2017 for the Reply.

16 Dated this 29th day of August, 2017

17  
18 

19 Mary Alice Theiler  
20 United States Magistrate Judge